

lobbyists." (Montana, A History of Two Centuries, p. 390). Happy anniversary to the Council!

The Council's next meeting is scheduled for March. For more information, contact Lois Menzies at (406) 444-3066 or lomenzies@mt.gov.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Reviews Budget Cuts for Family Assistance...The committee met on Feb. 12 and 13. The Department of Public Health and Human Services described the impacts of the recent budget cuts involving the FAIM II Reserve appropriations for tribal programs and general public assistance services, especially on the Blackfeet and Fort Peck Reservations. Because over half of the caseload for FAIM/TANF reside on Indian reservations, face rural isolation, and experience higher unemployment and poverty rates, the cuts have hit the reservation communities disproportionately hard. The committee is gathering more information in order to understand how policies are affected by the budget and will look at different solutions.

The committee completed its review of the Department of Public Health and Human Services with presentations from the Disability Services Division, the Child Support Enforcement Division, and the Operations and Technology Division. The department intends to create a new fiscal division.

Committee to Meet May 3...At the committee's May meeting, DPHHS will present budget and legislative bill draft proposals related to its executive planning process. The committee plans to meet jointly with the Legislative Finance Committee's HJR 1 Subcommittee on Mental Health to review legislative proposals from DPHHS and others regarding mental health issues and the public mental health system.

If you are interested in being placed on the interested persons list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, at (406) 444-3597 or at sfox@mt.gov.

DISTRICTING AND APPORTIONMENT COMMITTEE

Regional Maps Available...Regional maps of proposals for legislative districts for the northcentral, northeast, and southeast Regions are available through the "Redistricting" link on the legislative website.

The Commission met Feb. 19 in Miles City and Feb. 20 in Lewistown to review redistricting proposals for the southeast region and the central region, respectively. The southeast region includes Garfield, McCone, Richland, Dawson, Wibaux, Prairie, Fallon,

THE INTERIM

MARCH 2002

HELENA, MONTANA

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LEGISLATIVE COUNCIL

Hydra Code Sections Slain?...The Legislative Council met Jan. 25 in Helena. In the morning, the Subcommittee on Multiple Versions of Code Sections explored problems resulting from the proliferation of multiple versions of the same code section and discussed possible solutions. (See the "Back Page" in this issue of **THE INTERIM** for a related article.) In the afternoon, the full Council selected the following dates for legislative activities following the November elections:

Legislative Activity	2002 Dates
Senate and House caucuses	Wednesday, Nov. 20 (morning)
Law school for legislators (a continuing education program for all legislators)	Wednesday, Nov. 20 (afternoon)
New legislator orientation	Wednesday, Nov. 20 (evening) through Friday, Nov. 22

The Council also directed staff to draft:

- a rule requiring an extraordinary vote for bills containing a termination provision, delayed effective date, or contingency; and
- a bill clarifying the Council's appointment authority relating to interstate and international organizations.

Council Celebrates Anniversary...Members also celebrated the 45th anniversary of the Legislative Council. The Council was established on Feb. 21, 1957, when Gov. J. Hugo Aronson signed House Bill 46. Historians Michael Malone, Richard Roeder, and William Lang observed that the Council's creation was "[a] momentous change" in an otherwise politically uneventful era in Montana history -- one that "would provide [lawmakers] with better intelligence and help free them from such heavy reliance on

Carter, Custer, Powder River, Rosebud, Treasure, and Big Horn counties and the Crow and Northern Cheyenne Indian reservations. The Central Region includes Chouteau, Fergus, Judith Basin, and Petroleum counties.

The commission will tentatively adopt plans for the northcentral and northeast regions in March. It will also hold public hearings on the southcentral region that includes Yellowstone, Carbon, Stillwater, Sweet Grass, Wheatland, Golden Valley, and Musselshell counties. The general meeting schedule is:

- **March 14, 2002, Billings** - Southcentral Region, Executive Session and Public Hearing; and
- **March 15, 2002, Crow Agency** - Southeast Region, Public Hearing.

Additional meeting details will be posted on the commission's website. Written comments will be accepted on these areas until April 5, 2002.

Regional maps, descriptions, and staff analysis will be mailed to clerk and recorders, central committees, and legislators in the affected regions approximately two weeks prior to the hearings. The commission will also hold hearings in late April or early May in Billings, Bozeman, and Butte. Staff is visiting each area about two months in advance.

Written Testimony Solicited...Please send any written testimony c/o Susan Fox at the Legislative Services Division. She will distribute the information to all districting and apportionment commissioners. The commission will not make any decisions on plans until after the deadline for written testimony has passed. The next region to receive staff visits will be counties in Southcentral and Southwest Montana.

For more information or to be placed on the Commission's interested persons list, please contact Susan Byorth Fox at the Legislative Services Division, P.O. Box 201706, Helena MT 59620, (406) 444-3597, or sfox@mt.gov.

LAW AND JUSTICE COMMITTEE

The Law and Justice Interim Committee (LJIC) is scheduled to meet next in Helena on March 28 and 29, in Room 137 of the State Capitol. Items anticipated for the March agenda include:

- the regular reports from the Judiciary, the Attorney General and Department of Justice, and the Department of Corrections;
- a briefing by Ed Smith, Clerk of Supreme Court, on the compilation and reporting, as required by 46-18-604, MCA, of certain sentencing information from district courts;
- items related to the HJR 39 criminal sentencing study; and
- member issues.

The committee also plans to observe oral arguments before the Supreme Court during the afternoon of Thursday, March 28. For more information about the Committee's activities, contact Dave Bohyer by phone at (406) 444-3064 or by e-mail at dbohyer@mt.gov, or Chairman Rep. Gail Gutsche in Missoula at (406) 728-0566.

ECONOMIC AFFAIRS COMMITTEE

Committee Reviews Proposal for Workers' Compensation Reimbursements for Certain Therapists...The Economic Affairs Committee met Feb. 15. The Department of Labor and Industry discussed a proposal to change the methods used to reimburse physical medicine practitioners under the Workers' Compensation fee schedules. The problem first appeared in 1993 when rules were adopted that created separate Montana-only codes for chiropractors. The rules were adopted in response to concerns that chiropractor fees were causing large increases in workers' compensation insurance rates. In 1997, State Fund raised the issue of a disparity in the fees of chiropractors, physical therapists, and occupational therapists. Several efforts to resolve this problem were unsuccessful and the concerns raised by State Fund and the chiropractors continued.

Last fall, the department presented options and asked the committee for guidance on setting reimbursement schedules. The department faced a dilemma: if it did nothing to address reimbursement schedules, the Montana Chiropractors Association suggested that it may file legal action; and if the department went ahead with the proposed rule to adjust the schedules, the Montana Physical Therapists Association said that it would consider legal action as well. The department believed the best option would be to convene a working group to resolve the differences. Because all parties involved responded favorably, the committee requested that the working group report back with its findings and recommendations at the February meeting. The working group included representatives from the three workers' compensation insurance plans and representatives of chiropractors, occupational therapists, and physical therapists. Agency staff and outside actuarial consultants provided the analysis.

The working group agreed on several principles and goals. First, the common conversion factor should not cause a financial gain or loss to physical or occupational therapists (or in government parlance, the conversion factor should be "revenue neutral"). Second, the reimbursement schedules should eliminate Montana-only codes for chiropractors and incorporate standard current procedure terminology (CPT) codes adopted by the American Medical Association. Third, the group and the department agreed that reimbursement schedules under the workers' compensation system should not affect medical reimbursements for the health care system. Specifically, workers' compensation reimbursement schedules should be higher than reimbursements under Medicaid but less than private payers like Blue Cross-Blue Shield of Montana. Finally, any change in reimbursements should not cause a rate increase in workers' compensation insurance premiums.

Following several months of work that included calculating costs of using CPT codes instead of state codes, mapping tables for comparisons, and conducting detailed

surveys of and holding meetings with providers to better understand practice decisions, the group agreed to a standard conversion factor of \$4.25 for CPT codes used by all physical medicine providers. The conversion factor was judged not to trigger an insurance rate increase.

The department informed the committee that it is prepared to develop rules to implement the conversion factor. The administrative rules will include an administrative adjustment mechanism that will serve to gather and analyze actual claims from the three types of providers and to adjust the conversion factor to ensure that the goals of revenue neutrality and stable insurance rates will be met. The department believed the recommendations would create a system that is more equitable and consistent for providers, beneficial to insurers, and would aid in interstate comparisons.

April Meeting on Tap...The next meeting has been scheduled for Wednesday, April 10, in Room 137 of the Capitol. The tentative agenda includes:

- a report from David Gibson and staff from the Office of Economic Opportunity describing the economic development strategic plan;
- a presentation from the Research and Analysis Bureau, Department of Labor and Industry, on the Montana economy, labor market trends, and wage and salary information;
- a primer on unemployment insurance, the fiscal status of the unemployment insurance trust fund, and any congressional action that may affect the state's unemployment insurance program;
- activities in the Workforce Services Division of the Department of Labor and Industry, including progress made in determining how best to coordinate workforce development programs administered by various state agencies; and
- a briefing from representatives of the Department of Agriculture on agricultural development and marketing.

Please contact Gordy Higgins at (406) 444-3064, or by e-mail at gohiggins@mt.gov for more information.

SUBCOMMITTEE ON HEALTH CARE AND HEALTH INSURANCE

Subcommittee Examines Health Insurance Policy Options...The SJR 22 Subcommittee met Feb. 14 to review and discuss strategies for reducing the number of uninsured Montanans and policy options for making health insurance more affordable for those who are insured.

John Morrison, Insurance Commissioner, recently conducted a series of statewide roundtable discussions on the issue of health care costs and health insurance availability and affordability. He summarized the comments of roundtable participants. According to the comments, some of the problems that policymakers should address include Montana insurance market issues, increased usage of the health care system, low

reimbursement rates from publicly-funded programs, lack of providers and health care infrastructure in rural areas, and prescription drug prices. The solutions proposed included expanding CHIP to include parents, creating a statewide basic health plan, providing tax credits to help with the purchase of insurance, establishing insurance and prescription drug purchasing pools, and reducing the number of regulatory requirements and mandated benefits.

Morrison also discussed several policy recommendations that were generally supported by roundtable participants. Those recommendations included:

- income tax credits for small employers and individuals;
- purchasing pools, including pools for prescription drugs, small group insurance, and K-12 school districts;
- maximizing federal funds in existing public programs like Medicaid and CHIP;
- health care system oversight and planning;
- promotion of primary care and wellness programs; and
- increasing the tax on cigarettes and other tobacco products.

Subcommittee staff presented a draft options paper that briefly described ideas that were raised in prior meetings. The paper will help the subcommittee to prioritize its work for the remainder of the interim. The paper can be found on the subcommittee's website at: http://leg.mt.gov/interim_committees/economic_affairs/staffpapers/SJR22optionspaper2.pdf

The subcommittee will review each of the options in light of the following principles:

- Effectiveness. What is the likely impact on health insurance coverage and health care costs?
- Equity and distribution. What is the impact on people with different incomes, individual circumstances, and access to insurance or health care facilities and providers?
- Administrative feasibility. Will the implementation of recommendations correspond to the proposed benefits?
- Fiscal impact. What is the cost to the state?

A few of the options and issues that the subcommittee agreed it needs to consider are tax policy changes, prescription drug benefit programs and multi-state purchasing pools, and a health care inventory. More information was requested on the fiscal and policy issues associated with increasing CHIP eligibility to 200% of the federal poverty level, using the tobacco settlement trust fund, and creating a "basic" health care benefit package. The subcommittee also wanted to review the activities of the former Health Care Advisory Council.

A health care tax credit working group was formed to develop more detailed information about how tax credits for health insurance should be structured. The working

group will collect detailed information about the more than 165,000 uninsured Montanans. The working group will focus on how many of the uninsured are employed, where they fall within certain income eligibility levels, and whether they have access through their employer to health insurance. The working group will also review, with the assistance of business groups like the National Federation of Independent Businesses and the Montana Chamber of Commerce, the number of small businesses that offer insurance benefits, their experience with increasing premiums, and the effect that credits may have on either continuing or offering health benefits to employees. An important component of the working group's effort will be the collection of insurance product prices.

A few states, including Montana, offer income tax credits related to health insurance. Colorado, Kansas, and Maine each offer businesses a credit. For example, Colorado allows new businesses located in enterprise zones a \$200 tax credit for each employee, provided that the employer pays at least 50% of the monthly premium. The credit may be claimed for two years. North Carolina allows a tax credit for individuals who pay health insurance premiums for dependent children. A taxpayer whose income is less than 225% of the federal poverty level may claim an annual credit of \$300, while other taxpayers may claim a credit of \$100.

Other issues the working group will likely consider are:

- Should the tax credit be targeted for businesses or individuals? How should the level of income and access to employer-sponsored health benefits, etc., affect the structure of the credit?
- Should the tax credit be refundable?
- If the tax credit is refundable, what mechanisms are necessary to ensure the money is used to purchase health insurance?
- Should participation in an insurance purchasing pool be a requirement for eligibility?
- How can the Legislature assess the cost/benefit of a tax credit program?

Meetings Scheduled...The tax credit working group is scheduled to meet March 6, at 10 a.m. in Room 102 of the Capitol. The next meeting of the Subcommittee is scheduled for April 4, at 9 a.m. in Room 137 of the Capitol. The tentative agenda includes:

- a progress report from the tax credit working group;
- a discussion of costs and opportunities associated with joining or forming a multi-state purchasing pool for prescription drugs;
- a legal and fiscal analysis of the tobacco settlement trust fund;
- a presentation about the former Health Care Advisory Council; and
- the fiscal and policy implications of increasing CHIP eligibility to 200% of the federal poverty level.

Please contact Gordy Higgins at (406) 444-3064, or by e-mail at gohiggins@mt.gov for more information about subcommittee activities and details of the tax credit working group, including proposed meeting times and agenda items.

MONTANA LEGISLATIVE REFERENCE CENTER

Clipping Goes High-Tech...Do you have a favorite website that you consistently go to for information you consider valuable? Do you type in the URL (or perhaps the site is bookmarked in your web browser) to get there, and look around to see if any new content has been added since the last time you visited? What if there was a mechanism that would automatically check to see if that web page has been updated and send you an e-mail when it had been? Amazing? Yes. Possible? Certainly, through the use of an Internet clipping service.

An Internet clipping service can save you a ton of time and effort and streamline your whole searching process. Here are some you might try.

Spyonit (www.spyonit.com) keeps track of changes on any website. You can use it to track almost anything. For example, you could set it up to e-mail you whenever the Montana Attorney General's Office releases a new opinion on its website. There is a free and a fee-based version.

Net2One Keyword Alert (www.net2one.com) crawls web news sources. It delivers hits via e-mail once a day. Moreover (www.moreover.com) allows you type in a subject search and receive 25 news headlines in your selected area from a database of over 3,000 sources.

Northern Light News Alerts (nlresearch.northernlight.com/docs/alerts_help_about.html) is still available and still free! This service searches 56 newswires, many available for free only via Northern Light. Content is free to read and print for two weeks after publication. Searches can run up to three times a day and direct links to new content are delivered via e-mail.

There is no alert service available through NewsNow (www.newsnow.co.uk) but there are hundreds of topic pages available that are updated every five minutes.

For non-news content, check out Webspector, a tool you download (www.illumix.com/webspector.htm).

Infominder (www.infominder.com) and Watchthatpage.com (www.watchthatpage.com) are two robust clipping services that alert the user to specific webpage changes, and show you precisely where on the page the new information is located. These services can recrawl the content anywhere from once a minute to once a week. Simply enter a URL and let the technology do the work. Hey, you can track what's new on the Montana Legislative website by typing in www.leg.mt.gov.

If this topic of Internet clipping services intrigues you and you'd like to know more, there's a great article in *Searcher* magazine (which we carry in the Legislative

Reference Center) entitled "Web Wise Ways: Web Monitoring and Clipping Services Round-Up." Give us a shout, and we'd be delighted to send you a copy.

If you have any questions about Internet clipping services, please contact Lisa Mecklenberg Jackson in the Legislative Reference Center (ljackson@mt.gov <mailto:ljackson@mt.gov>) or at (406) 444-2957. And don't forget that we keep paper files of past newspaper clippings on legislative subjects of interest in Montana in the Legislative Reference Center. If you're looking for "what's been said" about a particular issue in our state, contact the library, and we'll send you newspaper articles about that issue.

Second Computer Added to Reference Center...We have recently added a second computer for public use in the Legislative Reference Center. If you're in town, and need to check e-mails from your Internet clipping service, stop in and use one of our library PCs. We'd be happy to have you!

LEGISLATIVE FINANCE COMMITTEE

Legislative Finance Committee (LFC) Meeting is Scheduled for March 14 and 15...It will be held in the Capitol, Room 102, and will begin at 10 a.m. on March 14. An agenda for the meeting is on the Legislative Fiscal Division (LFD) website at <http://leg.mt.gov/fiscal/index.htm>. The tentative agenda includes reports and discussions regarding:

- State budget status; revenues and expenditures including potential cost over-runs
- Economic impact of federal reductions in highway funding
- Issues with estimates used in fiscal note for HB 124
- District courts financing
- Department of Public Health and Human Services issues
- TANF update funding reductions
- FAIM Phase II-R: update
- Information requirements for internal service rate setting Part II
- Information technology management update State IT Strategic Plan
- Use of the governor's emergency fund
- Wildland fire suppression funding methodology
- 5% base reduction plans: update
- Corrections population projections (if necessary)
- SB 495
- Status of research and commercial funds
- Report on activities of subcommittees: HJR 1 - Mental Health Services, POINTS Subcommittee, Postsecondary Education Policy and Budget, Local Government Dedicated Revenues, Education Funding Study, and Health Insurance Costs Study

For more information concerning the meeting, contact the LFD at cschenck@mt.gov or at (406) 444-2986. Highlights of a couple of the above items follow:

The LFC will act on staff recommendations associated with legislative approval of internal service funded program fees and charges. The two recommendations that were deferred from its December 2001 meeting include discouraging: 1) the use of working capital reserve levels as rates for internal service funded programs; and 2) legislative approval of fees and charges that are structured differently than those charged to customers of the internal service funded programs.

Montana's chief information officer will present the state's first information technology strategic plan developed under the Montana Information Technology Act that came out of passage of SB 131 by the 2001 legislature. Under the new oversight role afforded the committee, it will have an opportunity to provide written comments of committee concerns prior to the statutory distribution to agencies on April 1. The statewide strategic plan will form the basis for developing agency information technology plans that must be approved by the Department of Administration and must be linked to agency budget requests for information technology resources.

SB 162 Subcommittee...Preceding the LFC meeting on March 14, the SB 162 Subcommittee on Review of State Revenues Dedicated to Local Government will meet from 8 a.m. to 10 a.m., in Room 137 of the Capitol. On its agenda is a discussion of the actions or plans to resolve HB 124 issues that might overlap with subcommittee issues, the continued review of certain dedicated revenue provisions, and a discussion of the process and the criteria of the SB 162 biennial review. For further information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

REVENUE AND TRANSPORTATION COMMITTEE

Green Eyeshades and Ham...As was mentioned in January's edition of *THE INTERIM*, there is a pervasive perception that the meetings of the Revenue and Transportation Interim Committee are crammed with only numbers, statistics, and percentages and are, therefore, deathly boring. While this is not the case, RTIC staff determined that a change of pace from the regular RTIC contribution to this publication was necessary for no other reason than RTIC staff has grown weary of the same ol' thing month after month. So, you like numbers? You want numbers? You dream about numbers? Do you refer to yourself as a "Numbers Guy/Gal"? RTIC staff at your service. Presenting...

RTIC's Index

**Fun (or not so) Facts That Emerged at the
Revenue and Transportation Interim Committee's Feb. 7 and 8 Meeting**
(in the style of the celebrated "Harper's Index"
found at the beginning of each issue of Harper's magazine)

\$172.9 million	Final unreserved general fund account balance for fiscal year end 2001.
\$646.8 million	Total general fund collections through January for fiscal year 2002.
\$604.8 million	Total general fund collections through January for fiscal year 2001.
6.9	Percentage increase in general fund collections above last year's collections for the same time period.
9.6	Expected percentage increase in general fund collections based on estimated revenue figures for fiscal years 2001 and 2002.
\$55.8 million	Amount actual revenues exceeded estimates for fiscal year 2001.
4.8	Percentage growth of revenue from the amount collected in fiscal year 2001 compared to the estimated amount for fiscal year 2002.
\$77.3 million	Estimated general fund revenue to be collected in fiscal year 2002 from fees in lieu of taxes on light vehicles, large trucks, trailers, and motorcycles.
\$32.1 million	Amount collected from vehicles 6 months into the fiscal year.
\$13.1 million	Estimated potential shortfall in vehicle fees in lieu of taxes.
7	Percentage increase in Montana wages from September 2000 to September 2001.
\$11.1 million	Amount that corporate income tax revenue has decreased in fiscal year 2002 compared to the first 6 months of fiscal year 2001.
6	Number of general fund revenue sources that may fall short of estimated collections (individual income tax, property tax, treasury cash account interest, tobacco settlement, investment license fees, and motor vehicle tax).
25	Number of states that assess fees for the shipment of spent nuclear fuel and high-level radioactive waste.
\$4,500	Amount per rail car cask that the state of Illinois charges to shippers of waste.
1985	Year that the Illinois law assessing permit fees was challenged on the grounds that it violated the Interstate Commerce Clause of the U.S. Constitution. The challenge failed because the fees were equitable and did not result in transportation delays and because revenue from the fees was used for purposes relevant to the transportation of the waste (inspection, training of responders, enforcement, and escorts).
\$1,000	Amount that Indiana charges per vehicle or rail car for shipment of waste.
180(c)	Section of the Nuclear Waste Policy Act that requires the U.S. Department of Energy to offer technical assistance and funding to

77	states through which the federal government plans to ship spent nuclear fuel or high-level radioactive waste.
\$40,865,721	Percent of hazardous materials that the Department of Energy ships by air transportation.
\$45,006,063	Ending working capital balance in the highway state special revenue account for fiscal year 2001.
\$251 million	Projected ending working capital balance in the account in fiscal year 2002.
\$261.4 million	Federal funds that the Department of Transportation pledged as its obligation goal for projects during federal fiscal year 2001. The number also represents Montana's maximum obligation authority.
\$236.9 million	Federal funds actually obligated through September of federal fiscal year 2001 (additional obligation authority was requested).
\$193.9 million	Funds estimated to be let to construction from November 2000 through September 2001.
4	Funds actually let during that time period.
\$271,592,640	Percent of obligation funds used for acquiring right-of-way, which is the most frequent cause of transportation project delay.
\$200,441,460 (\$71,151,180)	Highway program funds distributed to Montana in federal fiscal year 2002 by the Federal Highway Administration.
2,867	Estimated 2003 distribution.
2	Estimated difference between the 2002 distribution and the projected 2003 distribution.
13	Projected Montana job losses resulting from the funding reduction, according to the American Road Builders Association.
25	The U.S. Highway for which \$2 million has been earmarked in the Federal Transportation Appropriations Act. In deference to the desires of the area residents, MDT will use the funds to conduct an Environmental Impact Study (EIS) from Havre to Fort Belknap. Work on other planned projects for Highway 2, scheduled to be completed in 2005 and 2006, will be suspended pending the outcome of the EIS.
161+	Senate District of Sen. Grosfield, who urged RTIC to take action on his study resolution, SJR 21, stating that the lower tax assessment for agricultural land is intended to keep agriculture viable, not to "subsidize the conversion of agricultural land to nonagricultural uses."
4	Percent of the rate of class four property that rural nonagricultural land would have been taxed had Sen. Grosfield's SB 516 passed during the 2001 session.
	Acres owned that would require a landowner to apply to the Department of Revenue for special agricultural assessment, if one suggestion that was discussed became law.
	Members of the SJR 21 subcommittee, chaired by Sen. Glaser (and including Rep. Kaufmann, Rep. Devlin, and Rep. Story) who tentatively plan to meet prior to RTIC's April meeting to see if those interested in the subject of agricultural land taxation can find common ground on how to better the current system.

- 0 References here to the Department of Revenue's appearance before RTIC at the February meeting. A brief review of items discussed during the 3 hours RTIC spent with DOR will follow in April's edition of ***THE INTERIM***.
- 95 Percent of the time RTIC is erroneously referred to as RAT.
- 3 Regularly scheduled RTIC meetings left in the 2001-2002 interim.
- 11-12 Dates in April for the next RTIC meeting.
- (406) 444-3064 Number at which RTIC staff, Leanne Kurtz, can be reached (or by e-mail at lekurtz@mt.gov) to complain about "Harper's Index" format or to discuss committee agendas and activities.

(Sources include reports to RTIC by Terry Johnson, Legislative Fiscal Division; Dave Galt, Director, Montana Department of Transportation; and RTIC staff).

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

School Finance Public Hearings Schedule and Locations Set...The Education and Local Government Committee has set the schedule for the statewide public hearings on the school funding recommendations of the governor's Public School Funding Advisory Council. The hearings will be held on the following dates and in the following locations:

Monday, March 11:

Shelby High School Auditorium
1001 6th Street North

Tuesday, March 12:

Great Falls High School South Campus, Room 108
1900 2nd Avenue South

Wednesday, March 13:

Fergus County High School Cafeteria
201 Casino Creek Drive

Tuesday, March 19:

Stevensville Junior High Multi-purpose Room
300 Park Street

Wednesday, March 20:

Flathead Valley Community College Eagle's Nest (Cafeteria)
777 Grandview Drive

Tuesday, April 2:

Miles Community College
Room 106
2715 Dickinson

Wednesday, April 3:

Wolf Point High School Auditorium
213 6th Avenue South

Wednesday, April 17:

Billings Community Center
360 N. 23rd

Thursday, April 18:

College of Technology Commons
South Campus
25 Basin Creek Road

Each public hearing will begin at 7 p.m. and will open with a presentation by the Public School Funding Advisory Council. Following the presentation, the committee will take comments from the public on the recommendations. Plans are still being developed for holding a MetNet conference in conjunction with one of the statewide hearings.

Council Recommendations...The recommendations of the council are as follows:

1. Create a countywide levy to fund the property tax portion of the BASE budgets of all school districts in a county.
2. Expand the county retirement levy to fund school district health insurance costs.
3. Use a weighted GTB calculation for both the countywide BASE budget levy and for the county retirement/insurance levy.
4. Adopt the transportation funding structure proposed in House Bill No. 163 from the 2001 legislative session.
5. Calculate the average number belonging (ANB) for a district with declining enrollment by using average enrollment over a 3-year period.
6. Provide an annual inflation adjustment tied to the Consumer Price Index for the basic entitlement, the per-ANB entitlement, and special education funding.

7. Use the HB 124 block grant for debt service to expand school facility payments to all low-wealth school districts that have outstanding general obligation bonds and to increase the school facility payment.
8. Allow school district trustees to allocate the remaining balance of a district's HB 124 block grants to any budgeted fund of the district.

For further information about the hearings or to request a copy of the recommendations, please contact Connie Erickson at (406) 444-3064 or at cerickson@mt.gov. Copies of the recommendations are also available from Jeff Hindoien, Governor's Office, at (406) 444-3111 or at jhindoien@mt.gov.

ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality CouncilThe EQC met in Helena on Feb. 8. Jim Hill described the program capabilities of the state library's Natural Resource Information System, and Gary Hamel, Legislative Fiscal Division, reported on state wildfire suppression costs. Montana State University professor Jim Bauder and Montana Bureau of Mines and Geology hydrogeologist John Wheaton gave a short course on the science of water and soils in relation to coal bed methane development. Clint McRae, a Montana landowner and Northern Plains Resource Council member, presented his perspective on coal bed methane development. The EQC's next scheduled meeting is Thursday, May 9. **Please note that the EQC has changed the meetings from July 25 and 26 to July 29 and 30.** Subcommittee activities are set out below.

Minutes from previous meetings, EQC and subcommittee work plans, agendas, and press releases may be found on the EQC website at <http://leg.mt.gov/services/lepo/index.htm>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact the EQC office at (406) 444-3742 or mtheisen@mt.gov

Coal Bed Methane/Water Policy Subcommittee . . . The subcommittee met Feb. 7 in Helena and heard several presentations related to water and coal bed methane development. Montana Bureau of Mines and Geology hydrogeologist John Wheaton discussed concepts that are essential to understanding how coal bed methane development affects water supplies. He also described the potential effects of coal bed methane development on water quantity.

Ground water monitoring in the Powder River Controlled Ground Water Area was addressed by Department of Natural Resources and Conservation (DNRC) hydrogeologist Russell Levens. Levens described current activities and discussed the need to implement a regional monitoring plan.

Water rights experts Holly Franz, John Bloomquist, and Jack Stults discussed ways that water rights can be protected in areas of coal bed methane development. Two options dominated the conversation: ground water monitoring and water mitigation agreements. The DNRC established a water mitigation agreement requirement for the

Powder River Controlled Ground Water Area in 1999. House Bill 573, enacted during the 2001 legislative session, instituted a statewide requirement. The law requires coal bed methane producers to offer water mitigation agreements to ground water right holders with wells located within 1 mile of a coal bed methane well. Agreements must also be offered to those within one-half mile of a well that is adversely affected. Franz noted that Montanans with exempt water rights may file with the DNRC to put their water rights on record so that coal bed methane producers can identify them. Bloomquist emphasized the importance of a "safety net" and noted that HB 572 (2001) was intended to help landowners and water right holders with uncompensated damages.

Art Compton, administrator of the Pollution Prevention and Assistance Division of the Montana Department of Environmental Quality (DEQ), described the development of total maximum daily loads (TMDLs). By May 2007, the DEQ is required by a federal district court order to develop TMDLs for all impaired water bodies that were identified on a 1996 list. In addition, the DEQ may not issue certain permits for discharges into an impaired water body until all necessary TMDLs are developed. Several water bodies located in the primary area of coal bed methane development in southeastern Montana are affected by the federal district court order. The DEQ intends to develop TMDLs for these water bodies by the end of this year.

The subcommittee will meet again on May 8 in Helena. For more information, contact subcommittee staff:

Coal Bed Methane --Mary Vandembosch at (406) 444-5367 or by e-mail at mvandembosch@mt.gov.

Water Policy -- Krista Lee Evans at (406) 444-3957 or by e-mail at klee@smt.gov.

Agency Oversight/MEPA SubcommitteeRepresentatives from the Department of Environmental Quality (DEQ) and the Department of Natural Resources and Conservation discussed funding allocations from the Resource Indemnity Trust (RIT) account. Sandi Olsen, DEQ, said that remediation programs under the Comprehensive Environmental Cleanup and Responsibility Act (CECRA) are funded by the Environmental Quality Protection Fund (EQPF) plus amounts that are recovered from persons liable for a release of hazardous materials. The Resource Indemnity Trust account was statutorily capped at \$100 million by the 1999 legislature. The account generates approximately \$15.2 million in interest each biennium. About \$9.8 million of that amount is statutorily allocated for specific purposes, leaving about \$5.4 million in unallocated interest that is divided among four programs. The EQPF program receives 9% of that amount, or about \$486,000. CECRA program revenue fluctuates with interest earnings from the RIT account and with the amount that is recovered from liable persons. Program costs have increased over time placing financial constraints on this and other RIT funded programs if revenues are fixed or falling.

Petroleum tank cleanup: Representatives of DEQ reported on the petroleum tank release cleanup fund. The fund, supported by a fee on each gallon of motor fuel, is used to partially reimburse the cleanup costs incurred by owners of leaking underground fuel storage tanks. The fund is in jeopardy because of a backlog of claims from tank owners who pushed to meet a December 1998 deadline for replacing or upgrading tanks.

The large number of releases or spills discovered during that time period has put a financial squeeze on the fund balance which has been paying for cleanups since the fund's inception in 1989.

Biennial reports: Since 1997, the departments of Environmental Quality, Natural Resources and Conservation, and Agriculture have been required to submit a biennial report to EQC that summarizes each agency's environmental program compliance and enforcement efforts. Two reports have been submitted by each of the departments since the statutory requirement was imposed. The subcommittee concluded that the reports were helpful but could be made more useful to the Legislature, state agencies, and the public with some changes in the timing of the reports and with improved data analyses.

Costs of environmental impact statements: The subcommittee discussed the costs of preparing environmental impact statements (EIS) under the Montana Environmental Policy Act (MEPA). John North, DEQ chief legal counsel, said that in the case of an EIS required for a permitting decision, the applicant and the department generally enter into a negotiated memorandum of understanding that commits the applicant to paying for the MEPA costs. However, the MEPA statute that authorizes the collection of fees is often too restrictive in the assessment and use of the fees. North explained that the fees are limited to the cost of the project and may bear no relationship to the significance of a project's environmental impacts or the degree of analysis that must be undertaken. MEPA fees may not be used for printing, distribution, the public participation process, and certain other costs, which, in total, sometimes account for 5% to 40% of the agency's costs of complying with MEPA.

Next meeting: The Agency Oversight/MEPA Subcommittee will meet in Helena on Wednesday, May 8. For more information about the subcommittee's activities go to the EQC website or contact the subcommittee staff, Larry Mitchell, at (406) 444-1352 or lamitchell@mt.gov.

Energy Policy Subcommittee...The Energy Policy Subcommittee met Feb. 7 in Helena. The meeting was devoted to energy education and information gathering. The subcommittee heard presentations on electric industry restructuring, energy marketing, electric cooperatives, the settlement agreement that resolved stranded costs and allowed the sale of the Montana Power Company's transmission system, and the status of the Montana Wind Harness L.L.C. wind project. The subcommittee decided not to pursue any changes to energy policy at this time. The subcommittee's goal this interim is to generate energy educational materials for the 2003 Legislative Session. The subcommittee is scheduled to meet May 8.

Copies of staff memorandums, agendas, minutes, and the Final Energy Policy Subcommittee Work Plan may be found at <http://leg.mt.gov/services/lepo/subcommittees/energysub.htm>. For more information contact Todd Everts at (406) 444-3747 or teverts@mt.gov)

TRANSMISSION ADVISORY COMMITTEE

Transition Advisory Committee Meets in February, Adopts NCSL Proposal to Conduct Assessment of Montana Energy Policies...At the committee's Nov. 16 meeting, members discussed a suggestion for an independent assessment of the state's restructuring scheme. The committee decided that the National Conference of State Legislatures, as a nonpartisan and uniquely qualified organization, would be the appropriate entity to conduct the assessment. A review panel, including Sens. Thomas, McNutt, Stonington, and Rep. Dell worked with NCSL's energy program director Matthew Brown about doing the assessment. Brown submitted a proposal to the review panel. Following a series of discussions about the proposal, the review panel agreed upon a revised scope of study. The purpose of the study is to conduct an independent assessment of Montana's electricity policies and to offer a set of policy options that may either fine-tune existing policies or offer new policies that will further the goals of Montana's original restructuring legislation. The study will look at several goals including: evaluating the role of the default supplier of electricity; keeping as much control and money within the state as possible; suggesting means to protect and offer opportunities to smaller commercial and residential customers; and examining government institutions that are overseeing the market.

At the committee's Feb. 15 meeting, the review panel recommended that the TAC contract with NCSL to conduct the study. By an 8 to 2 vote, legislative members of the committee adopted the recommendation. The total budget for the study is \$14,000, of which NCSL will "cost-share" \$2,500. The total cost to the committee will be \$11,500.

Committee Reviews Other Energy Topics...Dennis Lopach, NorthWestern Corp., reported on the settlement agreement recently approved by the Public Service Commission that allows NorthWestern to purchase Montana Power Co.'s transmission and distribution property and settles the so-called "Tier 2" stranded cost issues. He also discussed NorthWestern's role as default supplier. Pat Corcoran, Montana Power Co., discussed the implications of Enron's collapse on the power supply to large industrial customers in Montana. Haley Beaudry discussed the plans of the Columbia Falls aluminum plant to reopen a portion of its smelting capacity. Finally, each of the subcommittees reported on their recent activities. Coverage of subcommittee activities follows below.

Transmission Subcommittee Reviews Status of Transmission System...The Transmission Subcommittee held its first meeting on Jan. 24. Representatives from the Northwest Power Planning Council, the Montana Power Company, and the Bonneville Power Administration presented reports on the status of the state's transmission system as well as the regional system.

John Hines, Northwest Power Planning Council, discussed the importance of the transmission system to Montana. He noted, among other things, that:

- an effective retail energy market requires a competitive wholesale market, which in turn requires an efficient transmission system;
- the regional transmission system is operating near capacity;

- transmission congestion problems may affect delivery and lead to system failure;
- Montana needs access to "load" centers if it is to develop new generation; and
- federal open-access transmission policies are not fully implemented and generators may not be able to obtain reliable and firm transmission.

Mr. Hines also discussed the role of the Federal Energy Regulatory Commission in the development of transmission policy. He noted that FERC Order 888 requires open and equal access to the transmission system. In addition, FERC Order 2000 requires that transmission owners consolidate into regional transmission organizations (RTOs).

Mark Donaldson, Montana Power Co., described the difference between point-to-point transmission and tariffs and network transmission and tariffs. Under point-to-point transmission, a customer chooses a point of entry on the system and a point of delivery to an end-user. Firm and nonfirm transmission is available for point-to-point transmission on a first-come, first-served basis. Preference is given to longer-term commitments, and payment has to be made in order to reserve access to the transmission system. Users of point-to-point transmission pay a specified rate for use of the system. Network transmission typically serves the native load of a generator. A customer pays for its share of the cost of the system instead of a specified rate. Under FERC Order 888, transmission service providers are required to electronically post information about the transmission system, rates, available capacity, and the ability to reserve access to transmission.

Vickie VanZandt, Bonneville Power Administration, described the current situation in the Bonneville service territory. According to VanZandt, load growth in the BPA service territory has been increasing by 1.8% a year, but little transmission has been added since 1987. BPA has developed a proposal to enhance the transmission infrastructure and to increase the capacity of the transmission grid. The purpose of the proposal is to integrate additional generation facilities, reduce congestion on the transmission lines, and increase the reliability of the system. Improvements to the transmission system would reduce the chances for cascading blackouts, facilitate the development of wholesale energy markets, and increase the flexibility of the system.

Transmission Subcommittee Meets in February... Panelists from the Bonneville Power Administration, Montana Power Co., a western Montana rural cooperative, the governor's office, and the Columbia Falls aluminum plant discussed the formation of a regional transmission organization (RTO-West) that would include Washington, Oregon, Idaho, Nevada, Utah, most of Montana and Wyoming, and a small area of California and Canada. Participants in the development RTO-West include BPA, a Canadian power authority, eight investor-owned utilities, and other stakeholders. The purpose of RTO-West would be to enhance wholesale and retail competitive markets and to ensure a secure and reliable transmission system for the region. Although ownership of transmission lines would not change, the operation of the regional transmission system would be managed by a nonprofit entity that would be responsible for tariff administration and design. The RTO would eliminate the distinction between firm and nonfirm transmission and would

allow customers more opportunity to gain access to the transmission system. According to a preliminary benefit-cost analysis, the establishment of RTO-West would have a net benefit to the region of \$350 million. Benefits to the system include eliminating "pancaked" (or different charges imposed in different service territories) transmission charges and the coordination of maintenance and scheduling of transmission and generation.

Panelists generally agreed that the concept of a regional transmission organization is a good one, but pointed out that the proposal is complicated. Details such as the rate structure, cost shifting, benefits and costs, the level of state involvement, and whether existing transmission contracts will be honored need to be worked out.

Western Area Power Administration to Conduct Transmission Study:

Congress authorized the Western Area Power Administration to conduct study of transmission expansion options in the Upper Great Plains Region, including Montana. Transmission capacity in the region is insufficient to support new electric generation capacity. In October 2001, WAPA solicited suggestions from interested parties for the sites in Montana that should be studied as potential locations for new generation. Ed Weber and Robin Johnson, WAPA project staff, discussed the scope of the Montana portion of the study. Based on suggestions received at the "scoping" meeting, the generation options would include 1,000 megawatt generation facilities at Colstrip (coal) and Great Falls (natural gas), 500-600 megawatt generation facilities at Billings (thermal) and Ft. Peck (wind), and 100 megawatt wind generation facilities at various locations in the state. Transmission options would include 230-500 kilovolt transmission lines running to Spokane, Pocatello, Denver, and Salt Lake. The study, due in early summer, will rank improvements to the transmission infrastructure.

Other Topics: The subcommittee approved the draft work plan and discussed the following reports:

- Krista Lee Evans, Legislative Policy Analyst, presented on overview of eminent domain;
- Larry Taylor, FGS & Associates, described the advantages of direct current transmission lines including transmitting power directly from one point to another, limited right of way requirements, lower line losses, and less expensive construction costs;
- Ted Williams and Gary McWhorter discussed the feasibility of a transmission line intertie between Montana and Alberta; and
- Dave Wheelihan summarized the proposed federal Energy Policy Act of 2002.

USBP Subcommittee Meets in February... The Universal System Benefits Program (USBP) Subcommittee met on Feb. 14 in Helena. The subcommittee heard a number of excellent presentations on USBP from a variety of presenters. Presentations included a panel discussion on implementing USBP in Montana; a panel discussion on low-income energy assistance and weatherization; a panel discussion on energy conservation and renewables; and an update on how other states are implementing USBP.

Meetings Slated for April...The Transmission Subcommittee and the USBP Subcommittee will meet April 25 and the full committee will meet April 26. For more information about TAC or the Transmission Subcommittee, contact Jeff Martin at (406) 444-3595 or jmartin@mt.gov. For more information about the USBP Subcommittee, contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Homeland Security...In order to secure the home front while the nation fights the war on terrorism, Montana needs to develop a better public safety broadcasting system; integrate how intelligence is collected and disseminated among federal, state, and local agencies; significantly improve the public health infrastructure, especially at the local level; keep a watchful eye on Montana's border with Canada; and directly support first responders, local law enforcement, firefighters, and public health officials. This was the message delivered to the State Administration and Veterans' Affairs Interim Committee (SAIC) at its Jan. 24 hearing on homeland security. Gov. Martz and department heads described the actions that state agencies are taking in the wake of the Sept. 11 attacks.

The governor has appointed a Homeland Security Task Force that is spearheading a coordinated effort to facilitate interagency and intergovernmental cooperation. State agencies are still gathering information and have not yet determined what legislation may be required and have not developed associated cost estimates. However, the executive branch assured the committee and legislators from other legislative interim committees that it is working on security issues and looks forward to working with each interim committee as it develops legislative proposals and identifies fiscal implications.

Additional hearings on homeland security are not being considered because any issues that surface will be taken to the appropriate legislative interim committee. The SAIC is responsible for monitoring the governor's task force and the Division of Disaster and Emergency Services.

Veterans' Affairs Subcommittee...The subcommittee has developed preliminary recommendations regarding the structure, mission, and funding of state veterans' services. The subcommittee concluded that the Board of Veterans' Affairs needs to be more responsive and accessible to veterans and that the membership of the Board of Veterans' Affairs should be revised. Under current law, the board consists of 5 members appointed by the governor. The subcommittee recommended adding nonvoting volunteers to the board who would represent veteran service organizations and their auxiliaries. The subcommittee also recommended the development of duties and responsibilities for advocacy and for the dissemination of information to veterans and their families about services and benefits provided by state and federal agencies. After reaching consensus, the subcommittee requested a bill draft to implement the recommendations. The bill draft (LC 5551) is available on the subcommittee's website by going to the Legislative Branch

home page at www.leg.mt.gov. The bill draft may also be obtained by contacting Sheri Heffelfinger, subcommittee staff, at (406) 444-3596.

The final meeting of the subcommittee will be May 23, beginning at 1 p.m. in Room 102 of the state Capitol. The subcommittee has requested a legislative performance audit of the Montana Veterans' Affairs Division (MVAD) and the Board of Veterans' Affairs and will review and discuss the findings and recommendations of the audit. The subcommittee will also consider other issues, such as property tax and vehicle registration fee waivers for veterans. Public comment will be invited before the subcommittee takes final actions.

Feds to investigate veterans' health care in Montana: Allegations were made at a subcommittee meeting that the federally-operated VA Montana health care system, headquartered at Fort Harrison, is providing substandard health care treatment for veterans. The U.S. Department of Veterans' Affairs is investigating the allegations and will present a final report to the subcommittee when the investigation is concluded.

Subcommittee on Voting Systems...The HJR 8 Subcommittee on Voting Systems met on Jan. 24 to hear testimony on how to improve and standardize training for election administrators, including school district clerks. The subcommittee also considered a "discussion" bill draft that would ban punch card voting systems by 2004 and a "discussion" bill draft that would generally revise state laws relating to voting system technologies. The second bill would direct the Secretary of State to adopt rules for setting benchmarks and system performance standards for each type of voting system approved by the Secretary of State. An election administrator could not use a voting system not approved by the Secretary of State. The bill would also direct the Secretary of State to adopt rules to standardize procedures for counting votes and determining whether a vote is valid. The bill drafts (LC 8881 and LC 8882) are available on the subcommittee's website accessible through the Legislative Branch home page at www.leg.mt.gov or by contacting Sheri Heffelfinger, subcommittee staff, at (406) 444-3596.

The final meeting of the subcommittee will be on Thursday, March 7, beginning at 9:00 a.m. in Room 102 of the state Capitol. The subcommittee will review the two discussion bill drafts, solicit public comment, and take final action.

Full Committee to Meet in April...The SAIC is scheduled to meet April 26. The Subcommittee on Voting Systems will present its final recommendations. The committee has statutory monitoring responsibilities for the Department of Administration, the Department of Military Affairs, and the Secretary of State. The committee will begin work on agency issues, including budget and legislative proposals. The committee also reviews public employee retirement systems.

All meetings of the SAIC or its subcommittees are open and public participation is invited. For more information, please contact Sheri Heffelfinger at (406) 444-3596 or sheffelfinger@mt.gov.

DEAR MASON AND ROBERTS

Dear Mason and Roberts: When I first got to the Capitol last session, I kept hearing all this talk about "physical notes". I thought that maybe I needed a note from my doctor to show that I was healthy enough to be a legislator. I knew that I looked a little pale at times and had beads of sweat on my forehead occasionally (especially during my first committee meeting), so I was a little nervous about seeing the doctor. Then I got really worried that I might have to buy a treadmill or weights or at least take a Yoga class. Well, come to find out, it wasn't a "physical" note that they were talking about at all, but instead a "fiscal" note. That sounded a lot better to me, and I ate a big donut the morning that I figured this out, but I still didn't really know what the heck a fiscal note was. In fact, the whole fiscal note concept still doesn't quite add up for me. Would you mind calculating some answers to the following questions? I'm counting on you! Thanks a million!

Representative Sid Entary

Dear Rep. Entary: During the 2001 session, 696 out of 1172 introduced bills, or 59%, had fiscal notes. We'd be glad to give you the scoop about these notes. Your first question, please. . . .

Q: Just exactly what is a fiscal note?

A: A fiscal note is a document that accompanies a bill through the legislative process if the bill has a potential fiscal impact on state or local government or public schools (5-4-201, MCA; Joint Rule 40-100). A fiscal note shows in dollar amounts: (1) the estimated increase or decrease in revenues or expenditures; (2) costs that may be absorbed without additional funds; and (3) long-range financial implications (5-4-205, MCA; Joint Rule 40-100). The budget director, in cooperation with the government entities affected by the bill, prepares the fiscal note.

The Speaker of the House or President of the Senate determines the need for a fiscal note (based on a Legislative Services Division recommendation) at the time the bill is introduced or after adoption of substantive amendments. In addition, a fiscal note may be requested, through the presiding officer, for an introduced or amended bill by: (1) a committee considering a bill; (2) a majority of members of the house in which the bill is being considered at the time of second reading; or (3) the chief sponsor (5-4-202, MCA; Joint Rule 40-100).

Q: Last session we had an appropriation bill in committee that allocated \$1.3 million to the Legislative Services Division. No fiscal note was attached. Why?

A: An appropriation bill carrying a specific dollar amount does not require a fiscal note (5-4-201, MCA; Joint Rule 40-100). It is assumed that the amount appropriated in the bill reflects the fiscal impact of the legislation.

Q: The budget office prepared a fiscal note for my bill that I flat-out disagree with. What are my options?

A: You have three options: persuade the budget director to revise the fiscal note; don't sign the note; or submit a sponsor fiscal note. Your presiding officer will notify you when the fiscal note for your bill has been delivered by the budget director. You then have 24 hours after notification (5-4-204, MCA) or 1 legislative day after delivery (Joint Rule 40-100) to discuss the fiscal note with the budget director. (If you need more time, you may request an extension not to exceed an additional 24 hours.) If the budget director is persuaded by your arguments and agrees to revise the fiscal note, you may sign the revised note, and it will be printed and distributed. If the budget director refuses to alter the fiscal note, you do not need to sign it; the note will be printed and distributed without your signature.

You may also elect to prepare a sponsor's fiscal note (5-4-204, MCA; Joint Rule 40-110). If you choose this option, you must prepare and return the note to your presiding officer within 4 days of your decision to prepare your own fiscal note, unless additional time is granted by your presiding officer.

Q: Sometimes my committee scheduled a hearing on a bill before we received the fiscal note. May we hold a hearing on a bill before we have a fiscal note in hand? May we take action on a bill without the fiscal note?

A: Yes, you may both hear and act on a bill before the fiscal note has arrived. But note that a bill requiring a fiscal note may not be reported out of committee for second reading without the fiscal note (5-4-201, MCA; Joint Rule 40-100).

Q: Let's say that a fiscal note estimates that it will cost a state agency \$500,000 to implement the provisions of a bill. The bill passes both houses and is signed by the Governor. Will the agency's budget automatically be increased to cover the implementation costs?

A: No, there is no automatic adjustment to the agency's budget. The Legislature must take action to increase the agency's budget in House Bill No. 2 (general appropriation bill) or in another appropriation bill. If no funds are added, the agency must absorb the additional cost within its budget.

Q: When a bill with a fiscal note is enacted, does the fiscal note have any legal status? Does it become part of the law? A: No on both accounts. A fiscal note is merely an executive branch estimate of the potential fiscal impact of the legislation. It does not create law or amend it.

Do you have rule questions that you would like us to cover in this column? If so, send them to Lois Menzies, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706 or lomenzies @mt.gov.

TIME AND TIDE	
<u>Event</u>	<u>Days remaining</u>
Target date for completion of interim committee work (September 15, 2002)	199
General election (November 5, 2002)	250
58th Legislature convenes (January 6, 2003)	312

BACK PAGE

I'VE GOT THOSE MULTIPLICATION BLUES

By Sally Bush, Legislative Editor
(with special dispensation and assistance from the Code Commissioner)

Have you ever noticed that the Code Commissioner is sometimes surly? Have you noticed that his normally sunny disposition sometimes hides behind a big black cloud? Do you fear for your life if you're unfortunate enough to have to talk to him? Scientific studies have uncovered what may be a partial explanation for this phenomenon--multiple versions of code sections. Aside from the obvious effects on the Code Commissioner's demeanor, there are a number of reasons that code sections with more than one version have become a major problem for legislative staff, for the public, and consequently for the Legislature itself. The Legislative Council has appointed a subcommittee consisting of Senator Beck, Senator Doherty, Representative Newman, and Representative Noennig to consider the problem and to recommend solutions.

Multiple versions of code sections result from termination dates, delayed effective dates, and contingency clauses in bills. There are many purported reasons for the addition of such provisions to bills because, as everyone knows, legislative creativity knows no bounds. The Legislature creates, and then it skedaddles. At that point, the staff begins several months of intense work incorporating that legislative creativity and innovation into what will become the new edition of the Montana Code Annotated. That's our job, and we try not to engage in excessive complaint (although acceptable levels of whining have been established).

How hard can it be to compile these code sections? After all, the Legislature is renowned for its rationality, moderation, and insight, right? While most staff are invigorated by a challenge, Exponential Mind Twister is hardly the game of choice after a grueling legislative session. After years of following the practice of creating multiple versions of law, we now find ourselves with 489 sections of law that have more than one version. It is starting to feel as if we are surrounded by the mythical Hydra--the nine-headed serpent slain by Hercules that grew two new heads for every one head that was whacked off. We are starting to feel as if we are having bad hair days that are worse than Medusa's. For those with a strong stomach or for anyone who enjoys the Jumble game in the newspaper, the sordid story of section 87-2-504, MCA, concerning Class B-7 and Class B-8 nonresident deer licenses, is a shining example of what can happen to a once-innocent section of law and is found at the end of this article.

Undoubtedly the audience contains some skeptics when it comes to scoring the degree of difficulty in dealing with multiple versions of code sections (some of you were probably Olympic judges from former Soviet bloc countries). However, the creation of multiple versions of a section quickly deteriorates into a warped and perverted version of the game of telephone or gossip. The game begins with a simple section that communicates the

language of the law. The section experiences legislatively induced schizophrenia and splits into more than one version. One version of the section changes, and all of the internal references to it change. Some of the amendments from one bill go into the first and second versions, but not into the third version that didn't exist at the time the other two versions were created. Subsection (2)(d) becomes effective on a special date, while subsection (3)(f) terminates on the occurrence of a particular contingency, so all the internal references change again and they tell their friends in other code sections, and they tell their friends, and so on, and so on. The final message may not even vaguely resemble what was communicated in the first place.

There are three primary reasons for addressing the proliferation of multiple versions of code sections. First is the threat to the ability of the staff to prepare the Montana Code Annotated for publication by October 1, the general effective date for legislation. In addition, the burgeoning use of multiple versions threatens the ability of the staff to make an accurate and up-to-date database available for bill drafting prior to each legislative session (or the even more frightening prospect of preparing a database for a special session that may be called with very short notice). Second, and perhaps even more important, is the inability of anyone to know what version of a statute is in effect on a given date due to the use of contingencies. The 2001 Montana Code Annotated contains 187 separate contingencies. Several phone calls are often required in an attempt to determine if a contingency has occurred, and there is no formal mechanism (nor is one practical or feasible) for notifying the public each time a contingency has occurred. The third reason for addressing the problem is the risk of erroneous incorporation of amendments in the various versions of a law. Granted, this has been publicly stated by staff as being an extremely unlikely occurrence, but secretly we each live in constant fear that we will be the person to make that one big mistake that precipitates a special session.

This article could continue for pages (just ask the Legislative Council subcommittee members who managed to escape after only 2 hours of discussion and endless examples), but the big concern for the Legislature and those of us who serve them relates to the accuracy of the published law and the credibility of the legislative process itself. Montana law is drafted using language that is (for the most part) understandable to the average citizen. That is as it should be. But what is the point of using words that a person can understand when they are contained in so many different versions of law that even those of us who compile the law are challenged to identify which version is in effect?

After considerable discussion and deliberation (gnashing of teeth was optional and mostly engaged in by staff), the subcommittee determined that it was advisable to rein in the runaway creation of multiple versions of code sections. The subcommittee requested that a proposed change to the joint rules be drafted that will require an extraordinary or supermajority vote to add a delayed effective date, termination date, or contingency to a bill and to ultimately pass the piece of legislation. The subcommittee will review the proposed rule and make a recommendation to the Legislative Council for its consideration. As one would imagine, the suggestion to add a delayed effective date to the proposed rule was not well-received!

THE STRANGE AND TERRIBLE SAGA OF SECTION 87-2-504

by Greg Petesch, Code Commissioner

Section 87-2-504, MCA, is apparently the darling of the termination date crowd. The love affair with terminating portions of this section began in 1987 when the section was amended twice by Chapters 458 and 598. Chapter 598 contained a March 1, 1994, termination date. Somehow, the 1989 Legislature managed to overlook the section, but this neglect was remedied in 1991 when the Legislature extended the former termination date to 1996. That extension was so rewarding that the 1993 Legislature further extended the termination date to 2006. The 1995 Legislature merely amended the section. Realizing the error of its predecessor's ways, the 1997 Legislature significantly rewrote the section and terminated those changes on October 1, 2001. The 1999 Legislature again amended the section but, tired of the old termination ploy, creatively added a delayed effective date to the amendments. Not to be outdone, the 2001 Legislature acted boldly. House Bill No. 99 went where few dare to tread and actually had the audacity to repeal the 1997 termination provision resulting in the retention of the 1997 amendments. Fearful of a complete break with tradition, the 2001 Legislature also amended the section in House Bill No. 554 and, you guessed it, added a delayed effective date. As it currently exists, section 87-2-504, MCA, is composed of only three versions (down from the four versions published in 1999)--a temporary version, a version effective March 1, 2002, and a version effective March 1, 2006. Will the 2003 Legislature have the opportunity to write a new chapter in this story of mystery and intrigue? Stay tuned.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

MARCH

March 6, SJR 22 Subcommittee tax credit working group, Room 102, 10 a.m.

March 7, HJR 8 Subcommittee on Voting Systems, Room 102, 9 a.m.

March 13, Joint Subcommittee on Postsecondary Education Policy and Budget, Room 102, 10 a.m.

March 14, SB 162 Subcommittee on Review of State Revenues Dedicated to Local Government, Room 137, 8 a.m.

March 14 (10 a.m.) and 15 (8 a.m.), Legislative Finance Committee, Room 102

March 25 and 26, Legislative Audit Committee, Room 102

March 27, State-Tribal Relations, Room 102

March 28 and 29, Law and Justice Interim Committee, Room 137

APRIL

April 4, SJR 22 Subcommittee on Health and Health Insurance, Room 137, 9 a.m.

April 10, Economic Affairs Committee, Room 137

April 11 and 12, Revenue and Transportation Committee

April 25, Transition Advisory Committee Transmission Subcommittee

April 25, Transition Advisory Committee Universal System Benefits Programs Subcommittee

April 26, Transition Advisory Committee, Room 317

April 26, State Administration and Veterans' Affairs Committee